

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

**AN ORDINANCE OF LEWIS COUNTY, WASHINGTON, REPEALING)
AND REPLACING LEWIS COUNTY CODE TITLE 5.15 MUSIC) ORDINANCE NO. 1261
FESTIVALS)**

WHEREAS, Lewis County Code Chapter 1.05.020 authorizes the Board of County Commissioners (BOCC) to amend and adopt separate ordinances for inclusion in the Lewis County Code; and

WHEREAS, the BOCC previously enacted an ordinance declaring it necessary for the protection of the health, welfare and safety of the people of Lewis County to enact a process to license music festivals as well as establish the minimum health, sanitary , safety and police standards which are necessary to protect the general public and those persons attending; and

WHEREAS, the BOCC held a public hearing as required under state law to take public testimony and consider the matter; and

WHEREAS, Ordinance 1261 repeals and replaces all the provisions of Lewis County Code Chapter 5.15 and does not diminish any other provisions of the Lewis County Code; and

WHEREAS, the BOCC reviewed the recommendations of the County staff, considered testimony from the public, and finds that the proposed Ordinance 1261 is in the best interest of the public.

NOW, THEREFORE, BE IT ORDAINED by the BOCC that it repeals and replaces the following language to Chapter 5.15 Music Festivals of the Lewis County Code:

**Replacement Chapter 5.15
MUSIC FESTIVALS**

Sections:

- 5.15.010 Preamble.
- 5.15.020 Definition.
- 5.15.030 Basic provision.
- 5.15.040 Qualification of applicant.
- 5.15.050 Application for permit.
- 5.15.060 Plan.
- 5.15.070 Requirements.
- 5.15.080 Permit fee.
- 5.15.090 Provisional permit.
- 5.15.100 Final approval.
- 5.15.110 Music festival permit.
- 5.15.120 General restrictions.
- 5.15.130 Revocation and cancellation.

- 5.15.140 Departure of patrons.
- 5.15.150 Posting.
- 5.15.160 Access to festival grounds.
- 5.15.170 Permit limitation.
- 5.15.180 Violation - Penalties.
- 5.15.190 Variances.

5.15.010 Preamble.

The Board of County Commissioners of Lewis County hereby declare that it is necessary for the protection of the health, welfare and safety of the people of Lewis County to enact under the police power of the county the following chapter providing for the licensing of music festivals as defined by this chapter and establishing the minimum health, sanitary, safety and police standards which are necessary to protect the general public and those persons attending such functions.

5.15.020 Definitions.

In this Chapter the following terms bear the meanings here ascribed to each:

- (1) *Music festival* means any gathering of 200 or more people at which live and/or recorded music is presented other than inside of a structure for more than four hours in any 24-hour period. PROVIDED, That this definition shall not be applied to any event held entirely within the Southwest Washington Fairgrounds, or entirely upon the premises of any established place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar and permanently established venue.
- (2) *Cashier's check* means a check issued by a bank or credit union authorized to do business in the State of Washington, drawn on its own funds, signed by an officer or other agent thereof, and guaranteed by that bank or credit union.
- (3) *Department* means the Community Development Department of Lewis County.
- (4) *Ordinances* include provisions of the Lewis County Code.

5.15.030 Basic provision.

It shall be unlawful for any person, other than the Government of the United States or of the State of Washington, or a Washington municipal corporation, whether acting on behalf of himself or any other person, partnership, joint venture, corporation or other association to:

- (1) Advertise or publicly promote a music festival at which –
 - (a) 200 or more persons can be reasonably expected to attend, or
 - (b) an admission fee is charged, without having first obtained a provisional music festival permit;

(2) Conduct a music festival or allow a music festival to be conducted upon property within his control unless a music festival permit has been obtained.

In addition, it shall be unlawful for any person to knowingly attend a music festival that is being conducted without a permit. A person shall be deemed to have knowledge that a music festival is being conducted without a permit if he or she is so informed, whether orally or in writing, by a police officer, a County code enforcement officer, or an officer of a fire protection district.

5.15.040 Qualification of applicant.

Any person over the age of 18 years, who has not been convicted of a felony crime within the last ten years involving moral turpitude, or the delivery, manufacture, use or possession of narcotics or dangerous drugs, and who has not been convicted of a violation of this Chapter within the past ten years, may make application for a music festival permit.

5.15.050 Application for permit.

(1) An application for a permit to conduct a music festival shall be submitted to the Community Development Department upon forms to be provided by that Department at least 90 days prior to the day scheduled to hold the festival. An application will not be deemed to be complete until such time as all elements required to be addressed therein have been addressed, and all required accompanying documentation, cash bond, and fees have been tendered to the Department.

(2) In addition to any other information which may be requested by the Department, an application shall provide the following information, verified under oath or affirmation:

(a) The name and address of the applicant, and, in the event that the applicant is a partnership, joint venture, corporation, or other association having 20 or fewer shareholders, members, co-venturers, or partners, the names and addresses of all persons having an interest in the entity, together with a description of that interest, and the names and addresses of all managerial and supervisory employees of the entity;

(b) A description of the property upon which the festival is to be held, including both a full legal description and the street address thereof, together with a verified statement from each owner or part-owner of such property that he, she, or it has been provided with a complete copy of the application for a music festival permit, has read it, fully and completely understands it, and consents to the holding of the festival;

(c) The date and time people will be in attendance to set up the festival, the times and dates during which attendees will be permitted onto the festival site, the hour and date on which the last attendee or festival staff member or contractor will leave the festival site, the days and hours during which music is to be presented, the number of patrons expected to attend, and the greatest number of persons who will be permitted to be present at the festival site at any given point in time;

(d) A verified statement by the applicant that he will at all times comply fully and completely with all applicable Federal, State, and local laws, ordinances, and regulations, including but not limited to the acquisition of any other required permit or approval, and that he will also make a conscientious effort to ensure that the patrons of the festival shall also comply with these laws. If the applicant is a partnership, corporation, partnership, limited liability company, or any entity other than one natural person, then such a verified statement shall be submitted by each person having a beneficial interest in the applicant, and by each managerial or supervisor employee of the applicant;

(e) A statement of the maximum number of persons who will be permitted to attend the event, a description of the measures to be taken to assure that no more than that number of persons will attend, and a description of how any persons in excess of that number who are denied admission will be routed out of the area of the event in a manner which leaves local roads passable by emergency vehicles and ordinary road users; and

(f) Evidence that:

(i) the ambulance to be stationed on the festival site will comply with WAC 246-976-290; and

(ii) all traffic control, ambulance, and fire suppression personnel who are to be present on the site pursuant to sub-sections 5.15.070(4), (5), and (6) are properly and fully qualified,

5.15.060 Plan.

(1) At the time that an application shall be made for a permit to hold a music festival, the applicant shall present to the Department six copies of a plan containing a diagram of the festival grounds showing all physical facilities as they shall exist at the time of the festival, and a narrative statement clearly setting forth the means by which the applicant shall comply with all health, sanitary, safety and police requirements for music festivals.

(2) Upon receipt of the copies of the plan, the Department shall immediately send a copy to the Department of Natural Resources (where applicable), and to the chief of the Washington state patrol, the fire district in which the festival is to be held, the Lewis County Department of Health and Social Services, the Lewis County sheriff, and any city or town which shall be in the vicinity of the festival site.

5.15.070 Requirements.

A permit to conduct a music festival shall not be issued unless the applicant shall comply with the following requirements or has conclusively demonstrated his ability to comply therewith:

(1) Location. The outside perimeter of the festival grounds shall not be less than 500 yards from any school or church; or 500 yards from any place of abode, commercial building, or farm building, unless the approval of the occupant has been obtained, pursuant to.

(2) Sanitary Facilities. The applicant shall provide such toilet, water and garbage facilities, of the nature and type prescribed by law, as are necessary to promote the health, safety, and comfort of the patrons, but in no instance shall there be less than the following:

(a) Two toilets for every 100 persons in attendance;

(b) Five water outlets for drinking for every 200 persons in attendance, such outlets to be connected to a certified public water supply system. Additionally, the system shall have sufficient capacity to provide:

(i) five gallons per person per day of potable water, if there is no overnight camping, there are no showers, and portapotties are used exclusively, instead of flush toilets; or

(ii) 20 gallons per person per day, if there is overnight camping, or if any flush toilets or showers are provided.

(c) Five 32-gallon garbage cans securely fixed in place for every 200 persons in attendance which shall be emptied at least once daily at the conclusion of the festival in conformity with Chapter 8.45 of the Lewis County Code and the laws of the State of Washington.

(3) Food Service. Any food which is dispensed upon the festival grounds shall be done in compliance with all applicable requirements of the Lewis County Department of Health and Social Services and of the Washington Department of Health.

(4) Fire Protection. The applicant shall provide such fire protection equipment of the nature and type prescribed by law that is necessary for the protection of the festival patrons and surrounding properties, but in no instance shall there be less than one fire engine with a minimum capacity of 1,000 gallons in standby readiness at all times upon the festival grounds, which shall be manned at all times attendees are present on the festival site by no fewer than three firemen who have completed the Washington State Basic Firefighter certification program. Shifts shall not exceed 10 hours in length, and shall be separated by rest periods away from the site of not less than 6½ hours in length.

(5) Ambulance Service. The applicant shall have an ambulance upon the festival grounds at all times, except when making emergency runs, which shall be manned by no fewer than two persons, such that, if necessary, a patient can be treated by a person who holds a current Washington EMT certification while the ambulance is operated by a person qualified under Washington law to operate an ambulance carrying a patient. Shifts shall not exceed 10 hours in length, and shall be separated by rest periods away from the site of not less than 6½ hours in length.

(6) Traffic and Crowd Control. The applicant shall provide the necessary personnel, equipment, and facilities to insure proper traffic control and crowd control. In doing so, the applicant shall seek the counsel and advice of the Lewis County Sheriff, and obtain his approval of the proposed plan. In no instance, however, shall the applicant provide fewer than one qualified person for traffic and crowd control

for every 200 persons in attendance, who shall remain on duty at all times that patrons occupy the festival grounds or are arriving or departing. Shifts shall not exceed 10 hours in length, and shall be separated by rest periods away from the site of not less than 6½ hours in length. Each of these control personnel shall meet one of the following requirements:

- (a) Be presently serving as a deputy sheriff or city policeman;
- (b) be presently serving as a reserve deputy sheriff or auxiliary policeman, with one year of experience;
- (c) have had at least two years' experience as a regular deputy sheriff or city policeman within the last 10 years;
- (d) have had two years' experience as a reserve deputy sheriff or auxiliary city policeman within the past five years; or
- (e) attained basic law enforcement certification from the Washington criminal justice training commission, or attained similar certification from a law enforcement training academy operated by another State or Territory of the United States, or by the Federal government.

(7) Parking. The applicant shall provide an area adjacent to the festival grounds which shall be the only area where patrons' cars shall be parked, and which shall be large enough to accommodate one car for every three persons present on the festival site. The parking area shall have a means of ingress and egress to the public highway which shall facilitate the prompt and orderly movement of traffic.

(8) Lighting. In the event that the presentation of music shall continue after sundown, the applicant shall provide for the illumination of all portions of festival grounds upon which festival attendees may be present and the parking area to a minimum light intensity of 0.1 foot candles. All outdoor lights shall be hooded and shielded.

(9) Bond. The applicant shall tender for deposit with the treasurer of Lewis County a bond in the amount as set forth below to save and protect the streets, pavements, bridges, road signs and other properties from all damage that might occur as a result of holding the festival, which monies shall be used to compensate the county for any damage which it sustains and to reimburse the county for any unusual law enforcement expenses which might incur. If any portion of the bond's value remain unexpended, then these monies may be used to restore the festival grounds to a sanitary condition, if necessary:

200 to 10,000 persons: \$5,000 bond

10,000 to 20,000 persons: \$7,500 bond

20,000 to 30,000 persons: \$10,000 bond

Plus an additional \$2,500 for each additional 10,000 persons expected in excess of 30,000 persons.

Such bond may be submitted in the form of U.S. currency or a cashier's check. Any unexpended portion of the bond shall be refunded to the applicant within 90 days following the conclusion of the event in respect of which it was deposited.

(10) Insurance. The applicant shall secure liability insurance providing for a minimum of \$1 million bodily injury coverage per person; \$1 million bodily injury coverage per occurrence, and \$1 million property damage (each limit per incident), with coverage limited to not less than \$2 million in the aggregate. The applicant shall tender with the application a certificate of insurance naming Lewis County as an additional insured.

(11) Waiver of Rights for Inspection and Security. The applicant, and each person having a legal or equitable interest in the premises, shall provide a notarized statement in the following terms and on a form available from the Department (or on a photocopy thereof):

"Consent to Enter Upon Land and to Conduct Search

"I am the lawful owner or occupant of the property described as [property description] and I have authority to consent to searches of the property. I understand that I am not required to give my consent to a search of this property, but that my consent is necessary to obtain a Music Festival Permit.

"I understand that I may revoke my consent at any time, but that revocation of my consent will prevent me issuance of a Music Festival Permit. If a permit has issued, revocation of this consent is still possible, but the permit will be immediately suspended or revoked.

"I understand that I may limit the scope of the search of my property, but I am not doing so. Law enforcement and county employees may enter my property and perform any search necessary to ensure compliance with this Chapter and with the laws of the State of Washington. I waive my right to be present during any search, and I waive any right I may have to notice of the search. The search may continue or be undertaken periodically during the following dates: [insert dates for which the permit is sought]. The search may include either a search for evidence of the mere presence of law enforcement or county employees.

"I understand that any evidence found could be used to suspend or revoke the Music Festival Permit and that it could be used in a criminal or civil proceeding against me or any other entity. **I have had full and ample opportunity to speak with an attorney of my own choosing prior to signing this document.**

"My consent is valid beginning [date three days prior to the festival] and ending [date of last day of festival], inclusive of stated dates."

5.15.080 Permit fee.

(1) The application to conduct a music festival shall be accompanied by a permit fee of two thousand five hundred dollars (\$2,500), which shall be in the form of U.S. currency or a cashier's check. The permit fee and the required bond may not be paid with a single cashier's check; two separate cashier's checks are required.

(2) In the event that the permit is not issued, or in the event that the permit is cancelled or revoked for reasons beyond the control of the applicant, then a refund may be available pursuant to the County's policy regarding refund of fees current as of the date of the event. A copy of the County's policy regarding the refund of fees current as of the date of the enactment of this provision comprises Attachment A to this Chapter.

5.15.090 Provisional permit.

(1) The Director of the Community Development Department or her designee shall instruct the applicant to meet with the Director (or her designee) at a time and date, to be specified by the Director, but in any event no later than 10 days following submission of a complete application, together with the required bond and all required accompanying documentation and fees.

(2) At this meeting, the Director of Community Development (or her designee) shall advise the applicant as to whether or not the applicant's plan is acceptable, and if not, what corrections need to be made. Acceptance shall require compliance with all applicable provisions of this Chapter, of other applicable provisions of the Lewis County Code and of uncodified County ordinances, and of State law. In the event that the applicant's plan is accepted by the Department, a provisional music festival permit shall be issued to the applicant. In the event, however, that the plan is not accepted, then the applicant shall be given a further opportunity to appear before the Director (or designee) to present modifications to the original plan that would correct its deficiencies, so as to permit acceptance of an amended plan at this second meeting. If requested by the applicant, the Department shall specify in writing the deficiencies of the applicant's plan.

5.15.100 Final approval.

(1) Not less than three days before the date of the festival, all physical facilities as provided for in the approved plan shall be fully constructed and installed, and the festival grounds shall at that time be inspected by the Department (or by any other Lewis County officer or employee who may act upon its behalf in making the inspection) to determine if the facilities are in conformity with the plan.

(2) At the same time or sooner, the applicant shall provide satisfactory evidence to the Department that he has provided for the stationing of a properly manned fire truck and an ambulance upon the festival grounds, and that he has obtained the services of qualified traffic and crowd control personnel. Signed contracts of employment shall be deemed to constitute satisfactory evidence. If the physical facilities are in conformity with the plan, and if satisfactory evidence is presented as to providing for a fire truck and ambulance, and personnel to control the traffic and crowds, then the applicant shall be entitled to receive from the Department a music festival permit, upon his tendering the bond and the insurance policy as

provided in this chapter. In the event, however, that the Department finds that the applicant has not complied with the requirements for holding the music festival, it shall immediately advise the applicant in the most expeditious manner of the deficiency. If requested by the applicant, the Department shall specify the deficiency in writing. A music festival permit shall not be issued until all deficiencies are corrected.

5.15.110 Music festival permit.

A music festival permit shall authorize the holder to conduct a music festival upon the date specified in the permit and upon the property described in the holder's application.

5.15.120 General restrictions.

The conduct of the music festival shall be subject to the following general restrictions:

- (1) Hours. Music may be only presented between the hours of 8:00 a.m. and sundown, unless there has been compliance with the lighting requirements, in which instance music may be presented until 10:30 p.m.
- (2) Admittance. The number of patrons attending the festival shall be limited to the number prescribed in the approved plan. The patrons of the festival shall not be permitted upon the grounds until 6:00 a.m. and shall be directed to vacate the premises upon the conclusion of the music festival.
- (3) Intoxicants. The possession and consumption of alcoholic beverages or of other mood or mind altering substances upon the festival grounds shall be prohibited.

5.15.130 Revocation and cancellation.

A music festival permit shall be issued solely for the purpose of preserving the public peace, health, safety, and welfare of the people of Lewis County, and therefore as a condition of its issuance, shall be subject to being summarily revoked by the order of the Department without notice, if cause shall exist for its revocation. It shall be presumed that such cause does exist if:

- (1) it appears that 20 percent more people than provided for in the approved plan shall be seeking admission to the festival;
- (2) it appears that general disorder, or violence or destruction of property may occur;
- (3) there is probable cause to believe that persons in attendance are using or possessing intoxicants, mood or mind altering substances, or illegal drugs or narcotics, and that such persons cannot be satisfactorily handled by police officers on an individual basis;
- (4) there is conduct involving disorderly or unlawful acts or commission of any nuisance which cannot be handled by police officers on an individual basis;
- (5) the music festival is not conducted in accordance with the plan submitted by the applicant and approved by the Department, or the music festival is conducted in such a manner as to violate the provisions of sections .050, .060, or .070 of this Chapter.

In the event of the revocation or cancellation of a permit the holder shall be entitled to a hearing before the Director of Community Development or her designee at the earliest opportunity that such a hearing may be held. Such hearing may be conducted by telephone.

5.15.140 Departure of patrons.

At the conclusion of the festival, or at such time as the music festival permit may be cancelled or revoked, the permit holder shall immediately take all reasonable measures to require the departure of all patrons from the festival grounds.

5.15.150 Posting.

During the festival, the music festival permit shall be posted in a safe but conspicuous place on the festival grounds. The permit shall be posted upon a four foot by four foot wooden sign, painted white with three-inch red lettering, which shall be located within 10 feet of the county right-of-way on any open public roads abutting the property or the property access road. The sign shall be posted not less than 30 days prior to the start of the music festival and shall be clearly visible from the public right-of-way. The sign shall read as follows:

“Notice of music festival – Name of Promoter and Land Owner. For information on the music festival contact:

“[Owner/promoter name and contact]”

5.15.160 Access to festival grounds.

The holder of a music festival permit shall allow free access to the festival grounds to police officers, Lewis County code compliance officers, health officers, fire protection district officers, and any other public officer who is present in his official capacity for the purpose of law enforcement or compliance with this Chapter and with other County ordinances.

5.15.170 Permit limitations.

(1) Frequency. A music festival permit shall not be issued to the same applicant, nor for a festival to be held in substantially the same area, for more than two consecutive days, nor for more than two occasions in any calendar year.

(2) Red Flag Fire Weather Warning. In the event that the U.S. National Weather Service issues a “Red Flag” fire weather warning for any area which includes the festival site, no attendees or festival personnel shall be permitted to enter the festival grounds until such Red Flag Warning has been rescinded. Should a “Red Flag” fire weather warning be issued while the Festival is in progress, all performances and activities shall cease forthwith, and all attendees and festival personnel shall leave the festival site immediately and for the duration of the Warning.

5.15.180 Violation - Penalties.

It is a gross misdemeanor for any person or entity to recklessly fail to comply with any provision of this Chapter. Upon conviction, the offender shall be punished by imprisonment in the County Jail for up to 364 days, a fine of not less than \$500 nor more than \$5,000 or both such imprisonment and fine. Each calendar day in which a violation occurs shall constitute a separate offense for the purpose of this Chapter.

PASSED IN REGULAR SESSION THIS ____ day of _____, 2015, after a public hearing was held on _____, 2015 pursuant to notice published in the Chronicle on _____, 2015.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

By: Glenn Carter, Deputy Prosecuting Attorney

Edna J. Fund, Chair

ATTEST:

P.W. Schulte, Vice Chair

Karri Muir, CMC, Clerk of the Board

Gary Stamper, Commissioner

Attachment A
Fee Refund Policy

- Refund requests must be submitted within 1 year of application submittal; 6 months of permit issuance; or 6 months of letter of completeness or incompleteness.
- For any application that has been reviewed and granted approval (preliminary to final), there will be no refund if the application is withdrawn by the applicant.
- If an application has been reviewed and denied, none of the fees will be refunded.
- If an application requires legal publication and legal notice has been published prior to an applicant requesting application withdrawal, no fees associated with the publication will be refunded.
- If a SEPA Determination has been made in conjunction with an application prior to an applicant requesting application withdrawal, no fees associated with SEPA will be refunded.
- If an applicant requests a refund prior to approval (preliminary or final), and the application has been reviewed by staff, the maximum allowable refund will be 50% of the fee.
- No Hearing Examiner fees will be refunded once the material has been submitted to the Hearing Examiner.

The maximum allowable refund for any submitted application will be 80%

(Note: This Attachment A reflects the County policy current as of the date of the most recent amendment of this Chapter of the Lewis County Code. This policy is subject to repeal or amendment from time to time.)